



U.S. Citizenship
and Immigration
Services

M-1

[REDACTED]

FILE:

[REDACTED]

Office: NEBRASKA SERVICE CENTER

Date: JUL 7 2004

IN RE:

Applicant:

[REDACTED]

APPLICATION:

Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:

[REDACTED]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Cindy M. Gomez for

Robert P. Wiemann, Director
Administrative Appeals Office

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

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DISCUSSION: The applicant's temporary protected status was withdrawn by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be sustained.

The applicant is a native and citizen of Honduras who is seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The director determined that the applicant failed to submit evidence to establish that he had successfully re-registered for his TPS Employment Authorization Document continuously each year. The director, therefore, withdrew the applicant's temporary protected status.

On appeal, counsel maintains that the applicant did submit an application for re-registration, but the applicant could not locate all of his supporting documentation. Counsel submits additional evidence. In addition, counsel states that he will supplement the appeal 90 days after receipt of a copy of the record of proceeding, which he had requested under the Freedom of Information Act (FOIA). The record reflects that the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), acknowledged counsel's request on February 14, 2003. However, neither counsel nor the applicant has submitted a brief or any additional evidence. Therefore, the record will be considered complete.

The director may withdraw the status of an alien granted TPS under section 244 of the Act at any time if it is determined that the alien failed without good cause to register with the Attorney General annually within thirty (30) days before the end of each 12-month period after the granting of TPS. 8 C.F.R. § 244.14(a).


On December 3, 2002, the director notified the applicant that his temporary protected status would be "withdrawn unless you can submit evidence to show that you re-registered for your TPS Employment Authorization Document continuously each year." The record does not reflect that the applicant responded to the notice. On April 4, 2003, the director withdrew the applicant's temporary protected status.

The record indicates that the applicant did file a Form I-765, Application for Employment Authorization, dated June 10, 2001, that was accepted by the director on June 19, 2001. This occurred during the re-registration period; however, there is no indication that any action was taken, or that the applicant was notified of the disposition of the application. In addition, the applicant filed a subsequent Form I-765, dated May 31, 2002, that also was accepted by the director on July 8, 2002.

On appeal, counsel furnishes a copy of a receipt for a money order in the amount of \$100, issued on June 10, 2001. The reverse side of the copy furnished by counsel reflects that the money order was deposited to a U.S. Treasury account on June 20, 2001. The money order relates to the Form I-765, Application for Employment Authorization, which was received by CIS on June 19, 2001.

Accordingly, in this case, it does not appear that the applicant "willfully" failed to re-register. Therefore, the director's decision is withdrawn; the appeal will be sustained, and the application approved.

An alien applying for temporary protected status has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 244 of the Act. The applicant has met this burden.


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ORDER: The applicant's appeal is sustained.